

ESTTA Tracking number: **ESTTA485779**

Filing date: **07/26/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Otter Products LLC		
Entity	Limited Liability Company	Citizenship	Colorado
Address	209 South Meldrum Street Fort Collins, CO 80521 UNITED STATES		

Attorney information	Ellen Reilly The Reilly Intellectual Property Law Firm PC 1325 East 16th Avenue Denver, CO 80218 UNITED STATES reilly@iplawdenver.com Phone:303-839-8700
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Applicant Information

Application No	85534910	Publication date	06/26/2012
Opposition Filing Date	07/26/2012	Opposition Period Ends	07/26/2012
Applicant	KOOL BRANDS, LLC. 5190 Neil Road, Suite # 430 Reno, NV 89502 UNITED STATES		

Goods/Services Affected by Opposition

Class 009.

All goods and services in the class are opposed, namely: Carrying cases for electronic equipment, namely, portable music players, mobile phones, global positioning systems, personal digital assistants, computers, portable computers, tablet computers, electronic book readers and cameras; Carrying cases for mobile computers; Carrying cases specially adapted for pocket calculators and cellphones; Carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices; Cases for mobile phones; Cell phone covers; Clear protective covers specially adapted for personal electronic devices; Computer carrying cases; Earphone accessories, namely, earphone cushions, earphone pads, cord management systems, earphone cases, and earphone extension cords; Electronic book reader covers; Fitted plastic films known as skins for covering and protecting electronic apparatus, namely, portable music players, mobile phones, global positioning systems, personal digital assistants, computers, portable computers, tablet computers, electronic book readers and cameras; Fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for electronic devices, namely, MP3 players, mobile telephones, smart telephones, digital cameras, global positioning systems and personal digital assistants; Laptop carrying cases; Notebook computer carrying cases; Protective carrying cases for portable music players, namely, MP3 players; Protective carrying cases specially adapted for global positioning system (GPS) apparatus; Protective carrying cases specially adapted for personal digital assistants (PDA); Protective covers and cases for cell phones, laptops and portable media players; Protective

covers for electronic reading devices

Class 028.


All goods and services in the class are opposed, namely: Amusement apparatus incorporating a video monitor; Amusement game machines; Amusement machines, namely, hand-held electronic game units adapted for use with an external display screen or monitor; Apparatus for electronic games other than those adapted for use with an external display screen or monitor; Audio and visual headsets for use in playing video games; Computer game consoles for use with an external display screen or monitor; Computer game joysticks; Electronic gaming machines, namely, devices which accept a wager; Electronic interactive board games for use with external monitor; Face plates for video game consoles for use with external monitors; Fitted covers specially adapted to protect video game consoles for use with an external display screen or monitor; Game controllers for computer games; Gaming headsets adapted for use in playing video games; Guitar skins for electronic guitar game controllers; Hand held joy stick units for playing video games; Hand held units for playing electronic games other than those adapted for use with an external display screen or monitor; Hand held units for playing video games other than those adapted for use with an external display screen or monitor; Hand-held electronic games adapted for use with television receivers only; Hand-held games with liquid crystal displays; Hand-held units for playing electronic games for use with external display screen or monitor; Joysticks for video games; LCD game machines; Player-operated electronic controllers for electronic video game machines; Protective carrying cases specially adapted for handheld video games; Protective carrying cases specially adapted for video game consoles for use with an external display screen or monitor; Stand alone video game machines; Stand alone video output game machines; Video game consoles for use with an external display screen or monitor; Video game interactive control floor pads or mats; Video game interactive hand held remote controls for playing electronic games; Video game interactive remote control units; Video game joysticks; Video game machines for use with external display screen or monitor; Video game machines for use with televisions; Video output game machines for use with external display screen or monitor; Video output game machines for use with televisions; Virtual reality headsets and helmets adapted for use in playing video games

Grounds for Opposition

Priority and likelihood of confusion

Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3632231	Application Date	09/17/2007
Registration Date	06/02/2009	Foreign Priority Date	NONE
Word Mark	ARMOR SERIES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2007/09/27 First Use In Commerce: 2007/09/27 Protective cases for interactive, handheld electronic devices, namely, portable music players, portable video players and tablet computers		

Attachments	77280984#TMSN.jpeg (1 page)(bytes) Notice of Opposition - LITE ARMOR.pdf (7 pages)(277598 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ellen Reilly/
Name	Ellen Reilly
Date	07/26/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>OTTER PRODUCTS, LLC,</p> <p style="text-align:right">Opposer</p> <p style="text-align:center">v.</p> <p>KOOL BRANDS, LLC</p> <p style="text-align:right">Applicant.</p>	<p>Opposition No.:</p> <p>Mark: LITE ARMOR Serial No.: 85/534,910 Filed: February 26, 2012</p>
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NOTICE OF OPPOSITION

Opposer, OTTER PRODUCTS, LLC, a Colorado limited liability company, located and doing business at 209 South Meldrum Street Fort Collins, Colorado 80521 believes that it is being damaged, and will be damaged, by the registration of the mark "LITE ARMOR" shown in Application Serial No. 85/534,910, and hereby opposes same. As grounds for opposition, Opposer alleges that, upon actual knowledge with respect to Opposer's own acts, and upon information and belief as to other matters:

Opposer and its ARMOR SERIES Mark

1. Opposer, OTTER PRODUCTS, LLC, is a Colorado limited liability company, having a principal place of business at 209 South Meldrum Street Fort Collins, Colorado 80521.

2. Opposer is one of the world's leading producers and providers of protective cases for interactive, handheld electronic devices, namely, portable music players, portable video players, phones and computers.

3. Opposer is the owner of Registration No. 3,632,231 for ARMOR SERIES for “protective cases for interactive, handheld electronic devices, namely, portable music players, portable video players, and tablet computers” in Class 9 (“Opposer’s Mark”). Opposer’s Mark was registered on June 2, 2009, with a date of first use of September 27, 2007.

4. By virtue of Opposer’s extensive use and promotion of Opposer’s Mark, Opposer has established valuable goodwill in the mark, and the public has come to associate the “ARMOR” mark with the Opposer. As such, the public has come to know “ARMOR” as an indication of protective cases for electronic devices that originate from Opposer.

5. By virtue of the use of Opposer’s Mark, and the high quality of products rendered under the mark, the Opposer’s Mark has achieved brand name recognition of the products produced and sold under the name “ARMOR SERIES”. As a result, consumers referring to Applicant’s products are likely to believe that Applicant’s Mark originates with Opposer.

Applicant’s Mark

6. Applicant KOOL BRANDS, LLC, is a Nevada limited liability company, having a principal place of business at 5190 Neil Road, Suite #430, Reno, Nevada.

7. Applicant is the listed owner of Application No. 85/534,910 for LITE ARMOR for “Carrying cases for electronic equipment, namely, portable music players, mobile phones, global positioning systems, personal digital assistants, computers, portable computers, tablet computers, electronic book readers and cameras; Carrying cases for mobile computers; Carrying cases specially adapted for pocket calculators and

cellphones; Carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices; Cases for mobile phones; Cell phone covers; Clear protective covers specially adapted for personal electronic devices; Computer carrying cases; Earphone accessories, namely, earphone cushions, earphone pads, cord management systems, earphone cases, and earphone extension cords; Electronic book reader covers; Fitted plastic films known as skins for covering and protecting electronic apparatus, namely, portable music players, mobile phones, global positioning systems, personal digital assistants, computers, portable computers, tablet computers, electronic book readers and cameras; Fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for electronic devices, namely, MP3 players, mobile telephones, smart telephones, digital cameras, global positioning systems and personal digital assistants; Laptop carrying cases; Notebook computer carrying cases; Protective carrying cases for portable music players, namely, MP3 players; Protective carrying cases specially adapted for global positioning system (GPS) apparatus; Protective carrying cases specially adapted for personal digital assistants (PDA); Protective covers and cases for cell phones, laptops and portable media players; Protective covers for electronic reading devices” in Class 9 and “Amusement apparatus incorporating a video monitor; Amusement game machines; Amusement machines, namely, hand-held electronic game units adapted for use with an external display screen or monitor; Apparatus for electronic games other than those adapted for use with an external display screen or monitor; Audio and visual headsets for use in playing video games; Computer game consoles for use with an external display screen or monitor; Computer game joysticks; Electronic gaming

machines, namely, devices which accept a wager; Electronic interactive board games for use with external monitor; Face plates for video game consoles for use with external monitors; Fitted covers specially adapted to protect video game consoles for use with an external display screen or monitor; Game controllers for computer games; Gaming headsets adapted for use in playing video games; Guitar skins for electronic guitar game controllers; Hand held joy stick units for playing video games; Hand held units for playing electronic games other than those adapted for use with an external display screen or monitor; Hand held units for playing video games other than those adapted for use with an external display screen or monitor; Hand-held electronic games adapted for use with television receivers only; Hand-held games with liquid crystal displays; Hand-held units for playing electronic games for use with external display screen or monitor; Joysticks for video games; LCD game machines; Player-operated electronic controllers for electronic video game machines; Protective carrying cases specially adapted for handheld video games; Protective carrying cases specially adapted for video game consoles for use with an external display screen or monitor; Stand alone video game machines; Stand alone video output game machines; Video game consoles for use with an external display screen or monitor; Video game interactive control floor pads or mats; Video game interactive hand held remote controls for playing electronic games; Video game interactive remote control units; Video game joysticks; Video game machines for use with external display screen or monitor; Video game machines for use with televisions; Video output game machines for use with external display screen or monitor; Video output game machines for use with televisions; Virtual reality headsets and

helmets adapted for use in playing video games” in Class 28 (“Applicant’s Mark”). Applicant has not begun using the mark and has filed an intent to use application.

COUNT 1: LIKELIHOOD OF CONFUSION

8. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 7.

9. Opposer has priority based on its prior valid and subsisting registration set forth in Paragraph 3 above. Opposer has used Opposer’s Mark in commerce prior to the filing date of the opposed Application Serial No. 85/534,910, and any date of first use that may be alleged by Applicant.

10. Applicant’s LITE ARMOR mark is substantially similar in sound, appearance, and connotation to Opposer’s Mark. Further, the goods identified in the opposed application are identical or closely related to the goods of Opposer, and flow in the same or related channels of trade.

11. Applicant’s LITE ARMOR mark so resembles Opposer’s registered mark as to be likely, when used in connection with Applicant’s goods, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, s amended, 15 U.S.C. §1052(d).

12. Opposer’s Mark was first used September 17, 2007. On the actual filing date of its application, Applicant had constructive notice of ownership of Opposer’s Mark and had knowledge, or upon reasonable inquiry would have had knowledge and therefore had constructive knowledge, if not actual knowledge, of the Opposer’s Mark in connection with its goods and sought to trade off of the goodwill and reputation in said mark when adopting the LITE ARMOR Mark opposed herein.

13. As a result of the similarity between Opposer's Mark and Applicant's Mark and the highly related nature of the goods associated with each party's respective mark, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among purchasers as to the source, origin or sponsorship of the parties' respective goods.

WHEREFORE, Opposer believes that it will be damaged by the registration of the mark shown in Application Serial No. 85/534,910, and requests that the opposition be sustained, and that registration to Applicant be refused.

A filing fee has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge such deficiency to our Deposit Account No. 18-0875.

Respectfully Submitted

A handwritten signature in cursive script, appearing to read "Ellen Reilly", is written over a horizontal line.

Dated: July 26, 2012


By: Ellen Reilly
THE REILLY INTELLECTUAL PROPERTY
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Attorneys for Opposer
Otter Products, LLC

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing NOTICE OF OPPOSITION was served by first class mail, postage prepaid on July 26, 2012, upon Applicant:

KOOL BRANDS, LLC.
5190 Neil Road, Suite # 430
Reno, NV 89502



Leah Kling